

Personnel Rule 7.11 - Domestic Violence, Sexual Assault, and Stalking Leave

Authority 7.11.0 Authority

SMC 4.04.040 and subsequent revisions thereto, Administration.

SMC 4.04.050 and subsequent revisions thereto, Rule-making authority.

RCW 9A.46.110, and subsequent revisions thereto, Stalking.

RCW 26.50.010, and subsequent revisions thereto, Domestic violence prevention, Definitions.

RCW 49.78.020, Family leave, Definitions.

RCW 49.90.005 *et. seq.*, Leave for victims of domestic violence, sexual assault and stalking and their family members.

RCW 70.125.030, and subsequent revisions thereto, Victims of sexual assault act, Definitions.

7.11.1 Definitions

- A. "Appointing authority" shall mean the head of an employing unit authorized by ordinance or City Charter to employ others on behalf of the City, or a designated management representative. The term includes and can be used interchangeably with department head, department director, superintendent, Fire Chief, and Police Chief.
- B. "Dating Relationship" has the same meaning as RCW 26.50.010 and means a social relationship of a romantic nature. Factors to consider in making this determination include:
 - 1. The length of time the relationship has existed;
 - 2. the nature of the relationship; and
 - 3. the frequency of interaction between the parties.
- C. "Domestic Violence" has the same meaning as in RCW 26.50.010 and means:
 - 1. Physical harm, bodily harm, assault, or the infliction of fear of imminent physical harm, bodily injury or assault, between family or household members;
 - 2. Sexual assault of one family or household member by another; or
 - 3. Stalking of one family or household member by another family or household member.

- D. "Family members" has the same meaning as in RCW 49.90.010 and means any individual whose relationship to the employee can be classified as a child, spouse, parent, parent in law, grandparent, as those terms are defined in RCW 49.12.265, domestic partner as defined in SMC 4.30.20, or person with whom the employee has a dating relationship. Under RCW 49.12.265 a "child" means a biological, adopted, or foster child, a step child, a legal ward, or a child of a person standing in loco parentis who is (a) under eighteen years of age or (b) eighteen years of age or older and incapable of self-care because of a mental or physical disability; a "parent" means a biological or adoptive parent of an employee or an individual who stood in loco parentis to an employee when the employee was a child; a "parent in law" means a parent of the spouse; a "grandparent" means a parent of a parent of an employee; and a "spouse" means a husband or wife.
- E. "Intermittent leave" has the same meaning as in RCW 49.78.020 and means leave taken in separate blocks of time due to a single qualifying reason.
- F. "Reduced leave schedule" has the same meaning as in RCW 49.78.020 and means a leave schedule that reduces the usual number of hours per workweek, or hours per workday, of an employee.
- G. "Sexual Assault" has the same meaning as in RCW 70.125.030 and means one or more of the following:
1. Rape or rape of a child;
 2. Assault with intent to commit rape or rape of a child;
 3. Incest or indecent liberties;
 4. Child molestation;
 5. Sexual misconduct with a minor;
 6. Custodial sexual misconduct;
 7. Crimes with a sexual motivation; or
 8. An attempt to commit any of the aforementioned offenses.
- H. "Stalking" has the same meaning as in RCW 9A.46.110 and is when, without lawful authority:
1. A person intentionally and repeatedly harasses or repeatedly follows another person; and
 2. The person being harassed or followed is placed in fear that the stalker intends to injure the person, another person, or property of the person or of another person; and
 3. The feeling of fear is one that a reasonable person in the same situation would experience under all the circumstances; and
 4. The stalker either:
 - a. Intends to intimidate, harass or frighten the person, or

- b. Knows or reasonably should know that the person is intimidated, harassed or afraid.
- I. "Victim" is a person who has been subjected to domestic violence, sexual assault and/or stalking.

7.11.2 Application of this Rule

- A. The provisions of this Rule apply to regularly appointed employees.
- B. For regularly appointed employees who are represented under the terms of a collective bargaining agreement, this Rule prevails except where it conflicts with the collective bargaining agreement, any memoranda or agreement or understanding signed pursuant to the collective bargaining agreement, or any established and recognized practice relative to the members of the bargaining unit.
- C. This Rule does not apply to individuals who are hired under the terms of a grant that includes provisions that conflict with this Rule. These individuals are subject to all applicable federal, state and City laws.
- D. This Rule does not apply to temporary employees. Temporary employees are governed by Personnel Rule 11 and all applicable federal, state and City laws.
- E. Appointing authorities may establish written policies and procedures for the implementation of this Rule to facilitate the management of the personnel system within their employing units, provided that such policies and procedures do not conflict with the provisions of this Rule.

7.11.3 Domestic Violence, Sexual Assault, and Stalking Leave Policy

The City will comply with State Law, RCW 49.90.005 et. seq., which provides for leave from employment for employees who are victims of domestic violence, sexual assault, or stalking, or for employees whose family members are victims, to participate in legal proceedings, receive medical treatment, or obtain other necessary services.

- A. An employee may take reasonable amount of leave from work, intermittent leave, or leave on a reduced leave schedule, with or without pay, to:
 - 1. Seek legal or law enforcement assistance or remedies to ensure the health and safety of the employee or employee's family members including, but not limited to, preparing for, or participating in, any civil or criminal legal proceeding related to or derived from domestic violence, sexual assault, or stalking;

2. Seek treatment by a health care provider for physical or mental injuries caused by domestic violence, sexual assault, or stalking, or to attend to health care treatment for a victim who is the employee's family member;
 3. Obtain, or assist a family member in obtaining, services from a domestic violence shelter, rape crisis center, or other social services program for relief from domestic violence, sexual assault, or stalking;
 4. Obtain, or assist a family member in obtaining, mental health counseling related to an incident of domestic violence, sexual assault, or stalking, in which the employee or the employee's family member was a victim of domestic violence, sexual assault, or stalking; or
 5. Participate in safety planning, temporarily or permanently relocate, or take other actions to increase the safety of the employee or employee's family members from future domestic violence, sexual assault, or stalking.
- B. As a condition of taking leave for any purpose described in this Rule, an employee shall give as much advance notice of the employee's intention to take leave as practicable. When advance notice cannot be given because of an emergency or unforeseen circumstance due to domestic violence, sexual assault, or stalking, the employee must give notice no later than the end of the first day that the employee takes such leave.
- C. When an employee requests leave under this Rule the appointing authority may require that the request be supported by verification that:
1. The employee or employee's family member is a victim of domestic violence, sexual assault, or stalking; and
 2. The leave taken was for one of the purposes described in this Rule.
- If verification is required, it must be provided in a timely manner. In the event that advance notice of the leave cannot be given because of an emergency or unforeseen circumstance due to domestic violence, sexual assault, or stalking, and verification is required, it must be provided within a reasonable time period during or after the leave.
- D. An employee may satisfy the verification requirement of this section by providing the department with one or more of the following:
1. A police report indicating that the employee or employee's family member was a victim of domestic violence, sexual assault, or stalking;
 2. A court order protecting or separating the employee or employee's family member from the perpetrator of the act of domestic violence, sexual assault, or stalking, or other evidence from the court or the prosecuting attorney that the employee or employee's family

- member appeared, or is scheduled to appear, in court in connection with an incident of domestic violence, sexual assault, or stalking;
3. Documentation that the employee or the employee's family member is a victim of domestic violence, sexual assault, or stalking, from any of the following persons from whom the employee or employee's family member sought assistance in addressing the domestic violence, sexual assault or stalking: An advocate for victims of domestic violence, sexual assault, or stalking; an attorney; a member of the clergy; or a medical or other professional; or
 4. An employee's written statement that the employee or the employee's family member is a victim of domestic violence, sexual assault, or stalking and that the leave taken was for one of the purposes described in this Rule.
- E. If the victim of domestic violence, sexual assault, or stalking is the employee's family member, verification of the familial relationship between the employee and the victim may include, but is not limited to, a statement from the employee, a birth certificate, a court document, or other similar documentation.
- F. An employee who is absent from work pursuant to this Rule may elect to use the employee's accrued sick leave, vacation leave, personal holiday, compensatory time, executive leave, merit leave, or unpaid leave time.
- G. The department shall not require disclosure of information other than the verification described in this Rule and shall maintain the confidentiality of all information provided by the employee under this Rule including the fact that the employee or employee's family member is a victim of domestic violence, sexual assault, or stalking, that the employee has requested or obtained leave under this Rule and any written or oral statement, documentation, record or corroborating evidence provided by the employee unless disclosure is requested or consented to by the employee, ordered by a court or administrative agency, or otherwise required by applicable state or federal law.
- H. The taking of leave under this Rule shall not result in the loss of any pay or benefits to the employee that accrued before the date on which the leave commenced. Upon an employee's return from leave under this Rule, the appointing authority shall either:
1. Restore the employee to the position of employment held by the employee when the leave commenced; or
 2. Restore the employee to an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment.

This section does not apply if an employee was hired for a specific term or only to perform work on a discrete project, the employment term or project is over, and the appointing authority would not otherwise have continued to employ the employee.

- I. Coverage under the City's health insurance plan must be maintained for the duration of the leave at the level and under the conditions coverage would have been provided if the employee had not taken the leave.